

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

CLERK'S OFFICE U.S. DIST. COURT
AT ROANOKE, VA
FILED

SEP 08 2006

JOHN F. CORCORAN, CLERK
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EMJADIA PORTER,
Petitioner,

)
)

) **Civil Action No. 7:00cv00679**

v.

)
)

) **MEMORANDUM OPINION & ORDER**

UNITED STATES OF AMERICA,
Respondent.

)
)

) **By: Hon. Michael F. Urbanski**
)

) **United States Magistrate Judge**

This matter is before the court upon petitioner's motion to proceed in forma pauperis ("IFP") on appeal and motion for certificate of appealability. The district court may deny a motion to proceed IFP when the issues raised are so frivolous that the appeal would be dismissed in the case of a non-indigent ... [or] where there is clear indication that the conduct of an indigent appellant amount to a deliberate harassment of the courts or an intentional abuse of the judicial process. Liles v. South Carolina Dep't of Corrections, 414 F.2d 612, 614 (4th Cir. 1969). Petitioner's motion for certificate of appealability will be addressed in a separate order.

On August 30, 2000, Porter filed a motion to vacate, set aside or correct his sentence, pursuant to 28 U.S.C. § 2255, and on April 6, 2001, the court dismissed his petition. Petitioner has since filed five (5) motion for reconsideration or alteration, all of which were denied by this court. In addition, Petitioner has filed three (3) appeals in this matter, all of which were dismissed by the Fourth Circuit Court of Appeals. Further, Petitioner was denied leave to appeal IFP on his third appeal. Now, Petitioner files a second motion for leave to appeal IFP with a motion for certificate of appealability (Docket # 60).¹

Porter has had at least five opportunities, since the dismissal of his § 2255 petition, to argue

¹Petitioner's motion for certificate of appealability is addressed by separate order.

his claims to this court, and the court has repeatedly found his arguments lack merit and fail to demonstrate that he is entitled to relief. Further, the Fourth Circuit has also reviewed and dismissed petitioner's claims on three previous occasions.

This court finds that petitioner has had numerous opportunities to litigate this matter both before this court and before the appellate court, and that an appeal of the court's denial of his fifth motion for reconsideration amounts to nothing more than an abuse of the judicial system. Accordingly, it is hereby **ORDERED** that petitioner's motion to proceed in forma pauperis on appeal shall be and hereby is **DENIED**

The Clerk is directed to send certified copies of this order to petitioner and to counsel of record for the respondent.

ENTER: This 7 day of September, 2006.



United States Magistrate Judge